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| APPLICATION NO.             | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|---------------------|------------------|
| 10/078,190                  | 02/15/2002  | Gianfranco Stratico  | 272/122             | 5432             |
| 1473                        | 7590        | 05/21/2004           |                     | EXAMINER         |
| FISH & NEAVE                |             |                      |                     | PHAN, THIEM D    |
| 1251 AVENUE OF THE AMERICAS |             |                      |                     |                  |
| 50TH FLOOR                  |             |                      | ART UNIT            | PAPER NUMBER     |
| NEW YORK, NY 10020-1105     |             |                      | 3729                |                  |

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/078,190

Applicant(s)

STRATICO, GIANFRANCO

Examiner

Tim Phan

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OS

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 26 February 2004.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 8-14,22-28,32 and 33 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 8-14,22-28,32 and 33 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. The amendment filed on 2/26/04 has been fully considered and made of record.
2. The rejection of claims 8-14, 22-28, 32 and 33 which were rejected in the Office Action mailed October 29, 2003 under 35 USC 102 or 35 USC 103; these claims are rejected under either 35 USC 102 or 35 USC 103 herein for substantially the same reasons as provided in the previous Office Action which is incorporated herein and made a part hereof.

### ***Response to Arguments***

3. Applicant's arguments filed 2/26/04 have been fully considered but they are not persuasive for the following reasons:

Applicant recites *inter alia*: "... pushing the portion of the stretch into the slot in a direction having a circumferential component with respect to the axis" (Cf. claims 8, 22 and 32). The Examiner's position as stated in the preceding Action was and continues to be that since the '429 teaches that the coils are deflected circumferentially along the core face (Cf. Fig. 2, 17; col. 5, lines 66- col. 6, line 2) and guided in a circumferential direction with respect to the axis toward their slots by deflecting pins (Cf. Fig. 2, Fig. 2, elements 69 & 71; col. 6, lines 1 ff.).

It appears that Applicant fails to recognize the scope of the claims when judged in view of the '429. (Cf. *In re Geuns*, 26 USPQ 2<sup>nd</sup> 1057 (Fed. Cir. 1993)).

4. With the remainder of the claims rejected under either 35 USC 102 or 35 USC 103, they stand rejected as carefully articulated in the previous Office Action and in Responses to Remarks in paragraph 3 above.

Furthermore the Office saith not.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

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no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Phan whose telephone number is 703-605-0707. The examiner can normally be reached on Monday - Friday, 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter VO can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

TP  
Tim Phan  
Examiner  
Art Unit 3729

*CAF*  
CARL J. ARBES  
PRIMARY EXAMINER

tp  
May 18, 2004